

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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WADE ALAN KNIGHT,

Plaintiff,

v.

CITY OF ELKO, *et al.*,

Defendants.

Case No. 3:22-cv-00384-MMD-CSD

ORDER

I. SUMMARY

Pro se Plaintiff Wade Alan Knight brings this action under 42 U.S.C. § 1983 against Defendants Officers Andrew Cunningham and Bartolo Ortiz for alleged wrongful arrest and Sergeant Melanie Edgmond for alleged wrongful booking in violation of his Fourth Amendment rights. (ECF Nos. 11, 18.) Before the Court is Defendants' motion for summary judgment (ECF No. 56 ("Motion")).¹ As explained below, because the Court finds no genuine disputes of material fact and no Fourth Amendment violation, the Court grants Defendants' Motion.²

II. BACKGROUND³

After screening, the Court allowed Knight to proceed with his Fourth Amendment claims against Cunningham, Ortiz, and Edgmond. (ECF No. 18.) During the relevant time

¹Knight responded (ECF No. 63), and Defendants replied (ECF No. 66).

²The Court also denies Knight's pending motion for status check (ECF No. 71) as moot because the granting of Defendants' Motion closes this case and because the documents that Knight requests in the motion for status check consist of the notice of change of address he himself filed (ECF No. 69) and a court order (ECF No. 68) notifying Knight of his deadline to oppose Defendants' motion to dismiss for failure to provide current address (ECF No. 67), which the Court had already denied with no need for a response from Knight (ECF No. 72).

³The following facts are undisputed unless otherwise noted. The Court only describes facts that are pertinent to its discussion of the Motion.

1 period, Cunningham and Ortiz were law enforcement officers with the Elko City Police
2 Department, and Edmond was a sergeant with the Elko County Sheriff's Office.

3 On March 10, 2022, responding to two separate calls for welfare checks,
4 Cunningham pulled over two individuals walking down a sidewalk. (ECF No. 56-3 at 2-3
5 (Cunningham's declaration); ECF No. 63 at 2 (Knight's response brief).) One of them
6 Cunningham assumed to be the subject of the calls, and the other was Knight, whom
7 Cunningham recognized but at the time could not remember his name. (ECF No. 56-3 at
8 3.) After making inquiries of the individual who was the subject of the welfare check calls,
9 Cunningham asked Knight for his name and to provide him with identification. (ECF No.
10 56-3 at 3; ECF No. 63 at 2.) Knight declined to share his name or provide identification.
11 (ECF No. 56-3 at 3; ECF No. 63 at 2.) Cunningham then left and drove away. (ECF No.
12 56-3 at 3; ECF No. 63 at 2.)

13 Shortly after, Cunningham remembered Knight's name. (ECF No. 56-3 at 3.)
14 Cunningham knew Knight as a "habitual criminal" that he had previously encountered
15 multiple times. (*Id.*) Cunningham ran a warrant check using his in-car computer and
16 noticed that there was an outstanding arrest warrant for Knight. (*Id.*) The misdemeanor
17 bench warrant had been issued on February 28, 2022 by a court in Lander County. (ECF
18 No. 56-6.)

19 Cunningham then pulled up for a second time on the two individuals, including
20 Knight. (ECF No. 56-3 at 3; ECF No. 63 at 2.) Ortiz arrived on the scene shortly thereafter.
21 (ECF No. 56-3 at 3; ECF No. 63 at 2-3.) Cunningham and Ortiz detained Knight in
22 handcuffs based on the warrant, pending confirmation of the warrant by dispatch. (ECF
23 No. 56-3 at 3; ECF No. 63 at 3.) Dispatch eventually confirmed the existence of the
24 outstanding arrest warrant to the officers, and Knight was transported to Elko County Jail.
25 (ECF No. 56-3 at 4; ECF No. 63 at 3.)⁴ Once there, Edmond booked and processed
26 Knight into custody. (ECF No. 63 at 9.)

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28 ⁴Cunningham's body camera footage (ECF Nos. 56-4, 57 (manually filed with the
Court)) corroborates the sequence of events from when Cunningham pulled up on Knight
for the second time to when Knight was transported to Elko County Jail.

1 **III. DISCUSSION**

2 A plaintiff may bring a claim for false arrest or false imprisonment under § 1983 by
 3 alleging a violation of their Fourth Amendment right to be free from unreasonable seizure
 4 of their person. *See Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 923-25
 5 (9th Cir. 2001). “A claim for unlawful arrest is cognizable under § 1983 as a violation of
 6 the Fourth Amendment, provided the arrest was made without probable cause or other
 7 justification.” *Dubner v. City & Cnty. of San Francisco*, 266 F.3d 959, 965 (9th Cir. 2001)
 8 (citation omitted). The Court first addresses the claim against Cunningham and Ortiz, then
 9 the claim against Edgmond. Because the parties do not appear to dispute any material
 10 facts but simply argue about what those facts demonstrate under the law, summary
 11 judgment is appropriate here. *See Nw. Motorcycle Ass’n v. U.S. Dep’t of Agric.*, 18 F.3d
 12 1468, 1471 (9th Cir. 1994) (“The purpose of summary judgment is to avoid unnecessary
 13 trials when there is no dispute as to the facts before the court.”).

14 **A. Cunningham and Ortiz**

15 The Court analyzes the sequence of events involving Knight’s encounters with
 16 Cunningham and Ortiz in chronological order to determine whether there was any Fourth
 17 Amendment violation.

18 **1. Initial Encounter**

19 As to the initial encounter, Knight appears to argue that Cunningham lacked
 20 reasonable suspicion or probable cause to stop him and ask him for his identity. (ECF
 21 No. 63 at 5.) To the extent Knight is arguing that the first encounter with Cunningham
 22 constituted a stop or seizure, the Court disagrees. “[A] seizure does not occur simply
 23 because a police officer approaches an individual and asks a few questions.” *Fla. v.*
 24 *Bostick*, 501 U.S. 429, 434 (1991). “[T]he appropriate inquiry is whether a reasonable
 25 person would feel free to decline the officers’ requests or otherwise terminate the
 26 encounter.” *Id.* at 436. “So long as a reasonable person would feel free ‘to disregard the
 27 police and go about his business,’ . . . no reasonable suspicion is required.” *Id.* at 434
 28 (internal citation omitted). “[E]ven when officers have no basis for suspecting a particular

1 individual, they may generally ask questions of that individual [and] ask to examine the
2 individual's identification . . . as long as the police do not convey a message that
3 compliance with their requests is required." *Id.* at 434-35 (internal citations omitted).

4 First, the initial encounter with Knight and his acquaintance was generally justified
5 because Cunningham had received two calls for welfare checks regarding Knight's
6 acquaintance who had purportedly been seen vomiting at a crosswalk and banging his
7 head on the concrete ground. (ECF No. 56-3 at 2-3, 7, 10.) It was therefore reasonable
8 for Cunningham to approach the acquaintance and Knight—who happened to be there
9 when Cunningham arrived—and to ask them questions and for identification to assess
10 the situation. *See Bostick*, 501 U.S. at 434-35. Second, as far as Knight was concerned,
11 the encounter did not constitute a "seizure" under the Fourth Amendment because he
12 was evidently not the subject of the calls and a reasonable person in that situation would
13 feel free to "disregard the police and go about his business." *See id.* at 434. In fact, Knight
14 apparently felt free to decline and indeed declined Cunningham's request for his name
15 and identification, and Cunningham accepted the response and did not require
16 compliance. *See id.* at 434-36; *United States v. Ingram*, 151 F. App'x 597, 599 (9th Cir.
17 2005) ("The appropriate inquiry is whether a reasonable person in [their] position would
18 feel free to ignore the officer's order."). Accordingly, the Court finds that Cunningham's
19 initial encounter with Knight was reasonable, did not constitute a stop or seizure requiring
20 reasonable suspicion or probable cause, and therefore did not violate the Fourth
21 Amendment.⁵

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26 ⁵To the extent Knight takes issue with the fact that Cunningham would not have
27 eventually discovered the arrest warrant had he not initially encountered Knight that day,
28 while that may be true, there is ultimately no Fourth Amendment violation that led to
Cunningham recognizing Knight during this encounter and later remembering his name.
Cunningham did not even learn of Knight's identity through the initial encounter itself but
from his memory of past encounters with Knight.

2. Warrant Check

Knight's main argument appears to be that Cunningham did not have probable cause or reasonable suspicion to run his name for a warrant check.⁶ (ECF No. 63 at 3-5.) Defendants counter that the Fourth Amendment did not require Cunningham and Ortiz to demonstrate probable cause or reasonable suspicion to search for outstanding warrants. (ECF No. 56 at 6.) As explained below, the Court does not agree with Defendants to the extent they contend law enforcement officers never need reasonable suspicion to run a warrant check but ultimately finds that the warrant check here did not constitute a search or seizure requiring justification under the Fourth Amendment.

Defendants primarily rely on *Utah v. Strieff*, 579 U.S. 232 (2016), to argue that the discovery of the valid arrest warrant "attenuat[ed] any hypothetical illegality of the initial stop" or warrant check. (ECF No. 56 at 7.) *Strieff* does not squarely apply here because it concerns the attenuation doctrine, which goes toward whether evidence is admissible despite unconstitutional police conduct.⁷ Here, the Court is concerned only with whether there was any unconstitutional conduct, not with whether such conduct was sufficiently attenuated to warrant not suppressing any evidence obtained. In § 1983 cases, "police officers cannot retroactively justify a suspicionless search and arrest on the basis of an after-the-fact discovery of an arrest warrant." *Moreno v. Baca*, 431 F.3d 633, 641 (9th Cir. 2005).

Fourth Amendment cases involving warrant checks typically involve a warrant check conducted during a stop or seizure. For instance, courts have required at least reasonable suspicion to detain someone for the purpose of running a warrant check, see

⁶Knight also argues that he did not consent to having his name run through the criminal history database. (ECF No. 63 at 3, 4.) The Court rejects that argument because the Fourth Amendment does not require that officers obtain an individual's consent to run a warrant check.

⁷Under the attenuation doctrine, "[e]vidence is admissible when the connection between unconstitutional police conduct and the evidence is remote or has been interrupted by some intervening circumstance, so that 'the interest protected by the constitutional guarantee that has been violated would not be served by suppression of the evidence obtained.'" *Strieff*, 579 U.S. at 238 (citation omitted).

1 *United States v. Lockett*, 484 F.2d 89, 91 (9th Cir. 1973) (finding that continued detention
2 “for the purpose of running a warrant check” to be unreasonable because the police “had
3 no reasonable grounds to be suspicious that there might be a warrant outstanding against
4 him”), and found that warrant checks performed incident to a traffic violation stop are
5 justified by officer safety concerns or the reasonable suspicion tied to the traffic violation,
6 *see United States v. Hylton*, 30 F.4th 842, 848 (9th Cir. 2022), *cert. denied*, 143 S. Ct.
7 393 (2022). In other words, a warrant check performed during a stop or seizure must be
8 justified on some reasonable grounds.

9 Here, the warrant check was not conducted during a stop or seizure of Knight. That
10 is, Cunningham conducted the warrant check in his car after he had driven away from
11 Knight after the initial encounter. (ECF No. 56-3 at 3.) The Fourth Amendment only
12 applies to searches and seizures, and the Court is not persuaded that a warrant check in
13 and of itself constitutes a search or seizure within the meaning of the Fourth Amendment.
14 *See United States v. Jacobsen*, 466 U.S. 109, 113 (1984) (“[T]he Fourth Amendment
15 provides that the ‘right of the people to be secure in their persons, houses, papers and
16 effects, against unreasonable searches and seizures, shall not be violated.’”).

17 “A ‘search’ occurs when an expectation of privacy that society is prepared to
18 consider reasonable is infringed.” *Id.* (citations omitted). “A ‘seizure’ of property occurs
19 when there is some meaningful interference with an individual’s possessory interests in
20 that property,” *id.* (citations omitted), and a “seizure” of a person occurs when “police
21 conduct would have communicated to a reasonable person that the person was not free
22 to decline the officers’ requests or otherwise terminate the encounter,” *Bostick*, 501 U.S.
23 at 439. Knight had no reasonable expectation of privacy in the information that he had an
24 outstanding arrest warrant contained in the criminal history database, which exists
25 primarily for law enforcement use and access as part of their operations. Nor could the
26 warrant check itself constitute a seizure of property or person. Accordingly, Cunningham’s
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1 running of the warrant check, which was not conducted during a stop or seizure and did
2 not itself constitute a search or seizure, did not violate the Fourth Amendment.⁸

3 **3. Second Encounter and Arrest**

4 Because Knight does not dispute or challenge the validity of the February 28, 2022
5 arrest warrant (ECF No. 63 at 17; ECF No. 56-1 at 11), the Court finds that Cunningham
6 and Ortiz's stop, arrest, and detainment of Knight during the second encounter based on
7 the warrant did not violate the Fourth Amendment. "[T]he facts upon which the
8 reasonableness of a search or seizure depends, whether it be an outstanding arrest
9 warrant . . . or any other fact, must be known to the officer at the time the search or seizure
10 is conducted." *Moreno*, 431 F.3d at 642. "A person arrested under a warrant would have
11 received a prior judicial determination of probable cause." *Gerstein v. Pugh*, 420 U.S.
12 103, 116 n.18 (1975).

13 Here, before and at the time of the arrest, Cunningham knew of Knight's identity,
14 and Cunningham and Ortiz knew of the outstanding arrest warrant for Knight. The warrant
15 supplied the probable cause for the officers to stop, arrest, detain, and perform a search
16 incident to the arrest⁹ on Knight. Accordingly, Knight's arrest did not violate the Fourth
17 Amendment.¹⁰

18 To the extent Knight argues that Cunningham and Ortiz's conduct from the warrant
19 check to the arrest violated certain Nevada statutes, national and state law enforcement
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21 ⁸As the reasonable suspicion standard cannot apply where there is no Fourth
22 Amendment search or seizure, the Court therefore need not—and does not—address the
23 parties' arguments about whether Cunningham had reasonable suspicion to run the
warrant check.

24 ⁹"The search-incident-to-arrest exception permits law enforcement officers to
conduct a warrantless search of a person who is arrested, and of his surrounding area,
25 when the search is incident to the arrest." *United States v. Smith*, 389 F.3d 944, 950-51
(9th Cir. 2004) (citation omitted).

26 ¹⁰To the extent Knight argues that, during this second encounter, the officers did
27 not have the emergency lights on their cars activated and therefore did not have legal
28 authority over him (ECF No. 63 at 8, 19), Knight does not support this contention with any
case law, and the Court is not persuaded that this changes the Fourth Amendment
analysis.

1 agency standards, and Elko Police Department internal policies (ECF No. 63 at 3-4, 14,
2 20-21), the Court rejects the argument because under § 1983, the only type of claim
3 proceeding here, the issue is whether a government official violated the Constitution or
4 federal law, not whether they violated state laws, agency standards, or police department
5 policies.¹¹ Officials should of course conform their conduct to applicable statutes and
6 policies, but conduct by a government official that violates some state statutory provision
7 or law enforcement policy does not necessarily violate the Fourth Amendment. *See Rios*
8 *v. City of Los Angeles*, Case No. 2:21-cv-05341-RGK-MAA, 2022 WL 17219085, at *2
9 (C.D. Cal. July 26, 2022) (“[W]hether an officer followed regulations or state law is
10 ‘immaterial as to the question of whether a violation of the federal constitution has been
11 established.’”); *Davis v. Scherer*, 468 U.S. 183, 194 (1984) (“Officials sued for
12 constitutional violations do not lose their qualified immunity merely because their conduct
13 violates some [state] statutory or administrative provision.”). Even if Cunningham and
14 Ortiz violated any of the provisions Knight identified, as the Court found above, their
15 conduct ultimately did not violate the Fourth Amendment.

16 **B. Edgmond**

17 Knight argues that Edgmond booked him into jail illegally because the arresting
18 officers did not have reasonable suspicion or probable cause to arrest him. (ECF No. 63
19 at 18.) As discussed above, the Court finds that Cunningham and Ortiz had probable
20 cause to arrest Knight based on the valid arrest warrant. Accordingly, Edgmond’s booking
21 of Knight into jail, which also relied on the valid arrest warrant, was lawful and did not
22 violate the Fourth Amendment.

23 Knight also argues that Edgmond violated Elko County Sheriff Department policies
24 by for instance not having a “declaration of probable cause sheet” when booking Knight.
25 (*Id.*) The Court rejects that argument because, as discussed above, violations of internal
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27 ¹¹“To state a claim under 42 U.S.C. § 1983, a plaintiff must allege the violation of
28 a right secured by the Constitution and laws of the United States, and must show that the
alleged deprivation was committed by a person acting under color of state law.” *West v.*
Atkins, 487 U.S. 42, 48 (1988) (citations omitted).

1 police department policies do not alone constitute violations of the Fourth Amendment,
2 and in any event, for purposes of the Fourth Amendment, such a sheet is not necessary
3 here where the valid warrant provided the probable cause required for Knight's arrest and
4 booking.

5 In sum, the Court finds that, based on the undisputed facts of this case,
6 Cunningham, Ortiz, and Edgmond did not violate Knight's Fourth Amendment rights and
7 accordingly grants Defendants' motion for summary judgment.

8 **IV. CONCLUSION**


9 The Court notes that the parties made several arguments and cited to several
10 cases not discussed above. The Court has reviewed these arguments and cases and
11 determines that they do not warrant discussion as they do not affect the outcome of the
12 motions before the Court.

13 It is therefore ordered that Defendants' motion for summary judgment (ECF No.
14 56) is granted.

15 It is further ordered that Plaintiff's motion for status check (ECF No. 71) is denied
16 as moot.

17 The Clerk of Court is directed to enter judgment accordingly and close this case.

18 DATED THIS 27th Day of June 2024.

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21 MIRANDA M. DU
22 CHIEF UNITED STATES DISTRICT JUDGE
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